

OLC #18-0399/79

S.2525--Title I -- Meeting of CIA Representatives on 22 May 1978

The following issues as to Title I of S.2525, arranged in order by section numbers, were raised and discussed at a meeting on 22 May involving representatives of various CIA components:

- a. Sections 103(4) and 114(c) may imply authority in the Congress to impose requirements on the IC as opposed to being a mere consumer of its products.
- b. Sections 104(17) and (19) raise the issue of the sufficiency of sources and methods protection provided due to inadequacies in these definitions. [Also 104(18)(D), because of its separation from 104(17) and (19) and lack of a qualifier concerning the type of R&D concerned, may imply that R&D matters do not qualify for such protection.]
- c. Section 111(a) is unclear concerning the relationship between the NSC and the IC entities which are placed under its "direction and control."
- d. Sections 114(b) and 114(m) may become problems if State pursues its suggestions to, respectively, require the DNI to coordinate counterterrorism activities abroad with the Chief of Mission and to keep the Chief of Mission fully informed "and otherwise comply" with 22 U.S.C. 2680a.
- e. Section 114(d), in connection with the Presidential transfer authority in 117, raises the issue of whether the DNI should remain as head of CIA (and, parenthetically, if not what degree of independence from the DNI should the head of CIA possess).
- f. Section 114(e)(3) may be a problem if DOD persists in its suggestion to limit DNI coordination to "national" clandestine collection activities abroad.
- g. Section 114(j) embodies the issue of requiring prior or any reporting of foreign liaison agreements. State has suggested such reporting be subsequent and be exempted from the Case Act requirements.
- h. Section 114(l), although related to the overall issues regarding sources and methods, may give rise to independent issues if DOD persists in its assertion to limit this DNI authority to protect only "national" intelligence sources and methods, and if State pursues its amendment to remove this protection as it may apply to deny information to Chiefs of Missions.

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i. Section 116(c) may raise an issue in that it requires the DNI and all IC entities to comply with the Federal Advisory Act (which now exempts CIA) except as they may specifically waive its requirements which include, among other things, open meetings, filing a detailed committee charter with OMB, publishing information in the Federal Register, etc.

j. Section 121(a) may give rise to an issue to the extent other agencies oppose inclusion of the CIA-suggested language from E.O. 12036 giving the DNI authority concerning reprogramming within the NFIP.

k. Section 123 gives rise to issues regarding the appropriate initiation, scope and recipient of GAO audits of intelligence activities (initiation by GAO alone, any committee or only the oversight committees? Program and management audits or only financial? Report to only oversight, or to other, committees?)

l. Section 151(a) provides a statutory charter for the IOB and calls into question the advisability of such a provision in law.

m. Section 151(j)(3) protects so-called "whistleblowers" too well.

n. Sections 151 and 152 include 15 separate requirements for reports to the Congress and present the general issue of the proper form and nature of such reporting provisions.

o. Sections 152(d) and (e) will present great practical difficulties and will disrupt normal records-keeping practices.

p. Section 153 may present an issue as to controlling access by Senate staff personnel to sensitive information through requiring security clearances and other measures. Also, it should be made clear that the oversight committee procedures provide the sole authority for access by other members of Congress to such information. (Note that 153(d)(1) may take care of this problem by providing that the access and use limitations of (c)(2), among other provisions, will constitute House and Senate rules and supersede other inconsistent rules.)

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

OLC #78-399/79

STAT FROM:

Assistant General Counsel

EXTENSION

NO.

DATE

23 MAY 1978

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED

FORWARDED

STAT 1. DDA
Attn:
7D18

2.

STAT 3. DDO
Attn: Eloise Page

4. 2D48 HQS

STAT 5. DDS&T
Attn:

6. 6E45 HQS

STAT 7. Legislative Counsel
Attn:
6D19 HQS

8.

STAT 9. Comptroller
Attn:
4E06

10.

11. Inspector General
6E08

12.

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15.

This is my summary reconstitution of the matters discussed at our meeting with Tony Lapham and

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